

REMARKS

Claims 2-10, 12, and 15-26 are currently pending in the present application, with Claims 11, 13, and 4 being canceled, and Claims 5, 6, 15, and 26 being amended. Reconsideration and reexamination of the claims are respectfully requested.

The Examiner rejected Claims 2-7 and 19-26 under 35 U.S.C. § 103(a) as being unpatentable over author admitted prior art (page 1, line 10 to page 3, line 14 and Fig. 14 of the present application, hereinafter "APA") in view of Tsurumi et al. (U.S. Patent No. 5,890,910) and Moriyama (U.S. Patent No. 5,679,911). This rejection is respectfully traversed.

As previously communicated, the present invention is directed to a method and apparatus for downloading music data such as songs or musical pieces to a player, such as a portable MP3 player, wherein the player includes a memory for storing music data. More specifically, the preferred embodiment of the present invention identifies the contents of the player memory to determine what music data is already stored in the player memory. The contents of the player memory is identified by using type data associated with each song or musical piece, the type data typically (though not restricted to) being one of genre, singer, composer, etc. In accordance with the preferred embodiment, the present invention includes an input device for receiving from a user type data designating certain music data desired by the user (e.g., R&B songs, songs sang by Britney Spears, etc.).

In accordance with the present invention, the type data of the received new music data is compared with the type data of the music data already stored in the player memory, to check whether the player memory already has the received new music data. Additionally, the type data of the new music data is compared with the type data designated by the user. If the player memory does not already have stored the received new music data, and if the type data of the new music data is one that is designated by the user, then the new music data is downloaded. The process is illustrated in Fig. 3 of the present application.

As also previously communicated, neither APA nor Tsurumi contain any disclosure of downloading to a player memory music data having type data, AND where the downloaded

music data is designated as desired by a user of the portable player, AND the music data is not already stored in a player memory.

It continues to be the Applicant's position that Tsurumi does not teach or suggest user designating specific type data, and downloading the designated music data from a central server if designated music data is not already stored in the portable player. Rather, Tsurumi discloses only periodic updating of the terminal apparatuses with the latest release updates without any regards to any designation by the user whatsoever. Again, the "requirement" discussed in Tsurumi is transmitted by the remote terminal simply as a request to perform an update; it is not a designation of a type data (or even a release number) of any kind by the user of a portable player. Rather, it is the host that designates what "necessary" information files should be downloaded with each new release.

Moriyama fails to make up for the deficiencies of APA and Tsurumi. Moriyama simply discloses storing music data on a karaoke reproducing device wherein the data relating to the songs, such as singer, songwriter, genre, etc. are stored with the songs. However, Moriyama does not mention anything related to the user designating a type data for purposes of receiving music data in accordance with the type data designated. Even when combined with APA and Tsurumi, Moriyama does not provide any additional teachings towards the claimed inventions.

The Examiner, on page 14 of the Office Action, maintains the position that Tsurumi teaches a user designating a type data "by the requirement transmitted from a terminal (col. 7, lines 46-52) and/or the editing, at the host, of the release file information (col. 2, lines 52-62; col. 5, lines 19-45; col. 7, lines 46-52)." The Examiner further states that "[o]ne of ordinary skill in the art would recognize that file editing is typically performed by a user (person or program) of the system." Applicant respectfully disagrees with the Examiner's position.

As amended, the claims clearly require that the user of the portable player be the user who designates the type data for determining what music data to download. None of the cited prior art references discuss any ability by the user of a portable player to designate type data. The "requirement" transmitted by the terminal is NOT a designation by the user of any kind.

The requirement is simply a request to update the release file. The user of the terminal in Tsurumi does not designate the release number. In deed, that information is known only to the host apparatus, not to the user of the terminal. Applicant inquires as to how a user of the terminal can designate something that the user does not even know whether it exists. Rather, as Tsurumi explains, the only available information pertaining to a release number, from the terminal end, is simply the latest release number last downloaded from the host apparatus (see col. 5, lines 15-18). Applicant respectfully submit that Tsurumi simply does not teach a user of a player designating type data. A blanket request for update does not equate to deliberate designation of type data.

Notwithstanding the distinction of the present invention as discussed above, Applicant has further amended to the claims to incorporate the feature of detecting when the portable player is placed (or commonly referred to as “docketed”) to the downloading device (e.g., a personal computer). The downloading of the music data based on user designated type data is effected when the portable player is detected to have been connected to the downloading device via placement on a table (as discussed on pages 10 and 11 of the present application).

In view of the above, Applicant respectfully submit that the rejected claims are not obvious in view of APA, Tsurumi, and Moriyama.

The Examiner also rejected dependent Claims 8 and 18 under 35 U.S.C. § 103(a) as being unpatentable over APA in view of Tsurumi and Moriyama and further in view of Kim et al. (U.S. Patent No. 6,083,009). This rejection is respectfully traversed.

Again, since none of APA, Tsurumi, or Moriyama contain any disclosure of downloading music data that have been designated by their type data, and since Kim fails to make up for this deficiency, Applicant respectfully submit that Claims 8 and 18 are not obvious in view of APA, Tsurumi, and Kim.


In view of the foregoing, Applicant respectfully submits that all of the pending claims are in condition for allowance. Reconsideration and reexamination of the claim are respectfully requested, and an early allowance is solicited. If the Examiner believes it would further advance the prosecution of the present application, he is respectfully requested to contact the undersigned attorney.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, Applicant petitions for any required relief including extensions of time and authorizes the Assistant Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket no. 393032014500.

Respectfully submitted,

Dated: October 13, 2005

By:


David T. Yang
Registration No. 44,415

Morrison & Foerster LLP
555 West Fifth Street
Suite 3500
Los Angeles, California 90013-1024
Telephone: (213) 892-5587
Facsimile: (213) 892-5454